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SUBJECT: URUGUAY REVISITS ITS AMNESTY LAW

Summary

1. (C) The Uruguayan political establishment has returned forcefully to a debate dating from Uruguay's emergence from dictatorship 23 years ago. Uruguay's Supreme Court took the unprecedented step of requesting on February 6, 2009, that its separate but equal co-branches of government opine on the constitutionality of Uruguay's 1986 amnesty law, which ostensibly shields members of the uniformed services and others from prosecution for crimes committed during the military regime of 1973-85. The ruling Frente Amplio coalition ("Broad Front", FA) strongly supports derogation of the law while the opposition believes a repeal only reopens old wounds. The on-going electoral campaign offers the opportunity for this issue to take on new life. End Summary.

Background

2. (SBU) The Uruguayan Parliament approved an amnesty law (commonly called the "Ley de Caducidad") in 1986, which protects members of the uniformed services who committed crimes during the dictatorship (1973-85). The military had pushed for the law after President Sanguinetti granted amnesty to all political prisoners upon taking office as the first elected president following the return to democracy. The Supreme Court upheld the constitutionality of the law in 1988, and a majority of the population voted against its repeal in a plebiscite in 1989, thereby ratifying it. In 2000, the government of President Jorge Batlle created a Peace Commission, which began investigating the fate of those detained or disappeared during the military regime. When President Tabare Vazquez took office in 2005, he reinterpreted article 4 of the amnesty law, granting the executive branch the ability to investigate the destiny of the detained or disappeared and specifically exclude specific individuals from amnesty protections. As a result, Uruguay's judiciary has investigated and begun trials for a number of retired members of military and former police officers, including former dictator Gregorio Alvarez.

New Developments

3. (SBU) The current situation arose when Prosecutor Mirtha Guianze petitioned the Supreme Court to investigate the case of Nibya Salbasagaray, a communist who died in military captivity in 1974. Doing so required a ruling on whether or not the amnesty law held in this particular instance. The Court then requested the opinion of the Executive and Legislative branches on whether the amnesty law is constitutional. While the Court has requested the opinion of the Executive branch before, this is the first time since its drafting that the law's legality was debated in Parliament. In its non-binding opinion, the Vazquez government unsurprisingly declared the law to be unconstitutional on February 17. For its part, the Parliament dedicated an

entire day to debate the issue on February 25 before concurring with the Executive. NOTE: The FA holds a majority in Parliament. Members of the principal opposition Blanco party either did not attend or entered the chamber to denounce the revival of the issue and left before the vote. Only one member of the other opposition parties, the Colorado and Independent parties, attended, and they did not concur with the FA. End Note. The Supreme Court now must make an official determination on the unconstitutionality of the amnesty law.

¶4. (SBU) There has also been an effort by a citizens' group to collect signatures in order to put the issue on the ballot this October, with the hope of overturning the previous referendum and voiding the law. The group currently has over 220,000 signatures, which falls short of the legally-mandated 250,000 needed to assure that the referendum makes it on the ballot, but that figure could be reached shortly.

Comment

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¶5. (C) The electoral climate has heated up in Uruguay, and even minor issues have greater resonance. This is a particularly polarizing subject here, and both the GOU and its opposition appear to have determined that their best interests lie on opposite sides of the debate, exactly where they were when the law was first passed with Blanco and Colorado support. It is therefore not an issue that will change anyone's mind about how to vote. What it might do, though, is awaken emotions that could lead to a less civil campaign than we would otherwise see. End Comment.

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